**Testimony of Richard W. Pombo, Chairman, and Nick J. Rahall II, Ranking Democrat**

**Committee on Resources**

**Before the Subcommittee on Technology and the House**

**June 16, 2004**

Thank you, Chairman Linder and Members of the Subcommittee.

We appreciate this opportunity to jointly recommend changes in House Rule 10 to better reflect and help organize the House Committee jurisdictional structure and ultimately contribute to the effectiveness and the efficiency of the House. While to date Chairman Pombo has been honored to serve as the Chairman of the Resources Committee for only 16 months, the Committee itself will mark its bicentennial in 2005 and it has a long and distinguished history in the Congress.

We wish to address three areas in our testimony. The first is the lack of guidance for the Members of the House, the staff and most importantly the American people provided by the Committee on Resources's jurisdictional statement under Rule 10.

If you ask a member of the public what committee in Congress would have authority to amend the Endangered Species Act, he wouldn't be able to tell you, even after pouring over Rule 10 with a magnifying glass and several Philadelphia lawyers. The answer, of course, is the Resources Committee, but no where is that landmark environmental law mentioned in our Rule 10 authority. The same could be said for wilderness, water law, environmental planning and review under the National Environmental Policy Act, power marketing administrations, fish and wildlife habitat, and national ocean policy. Who monitors programs of the Bureau of Reclamation, the National Park Service, and the Council on Environmental Quality? That would be Resources, but again our Rule 10 jurisdiction is silent.

On the other hand, people contact the Resources Committee all the time with questions about the National Flood Insurance Program, the Clean Water Act, and the Clean Air Act, none of which we are sorry to say is in our bailiwick.

Although it would be impossible to list every statute, program or agency under a committee's jurisdiction – Resources has all or parts of over 225 – a more comprehensive listing of selected major statutes and program areas under a committee's Rule 10 jurisdiction would help clarify and educate the Congress and the public.

The second topic we wish to address is the issue of overlapping committee jurisdictions. With now 21 standing and select committees in the House of Representatives, the chances for concurrent jurisdiction are huge. In fact, of the 568 bills referred to the Committee on Resources as of June 1 of this year, 148 (26%) were bills with multiple referrals.

While some of these are long-standing, many were created when the Committee on Merchant Marine and Fisheries was eliminated in 1995 and its jurisdiction scattered among several other committees in the House.

One example of this is the term "oceanography" in the Resources Committee's jurisdictional statement. Oceanography is defined as "the body of science dealing with the ocean," which given that this term came directly from the Merchant Marine Committee's jurisdictional statement

under Rule 10, makes perfect sense. Resources also garnered the term "marine affairs" from Merchant Marine in keeping with then Chairman Don Young's wishes and the Leadership's promises that all of Merchant Marine's "wet" jurisdiction would transfer to the Committee on Resources.

However, in the House Rules for the 104th Congress, a new term magically appeared in Rule 10, "marine science," in the jurisdiction of the Science Committee, which had a somewhat checkered history of feuds with Merchant Marine in this area. Now, what "marine science" means that is different from "oceanography" and "marine affairs" is anyone's guess. It has, however, led to multiple committee referrals of bills dealing with marine issues and we are sure many nightmares for the Office of the Parliamentarian.

Another area of jurisdictional overlay is Native American issues. The Committee on Resources has a very clear, very sweeping jurisdictional statement on first Americans: "Native Americans generally, including the care and allotment of Native American lands and general and special measures relating to claims that are paid out of Native American funds." Rule 10 also grants Resources "Relations of the United States with Native Americans and Native American tribes." This seems to us to cover all instances where legislation would affect Native Americans, but the Speaker has routinely referred bills dealing with Native American schools to the Education and the Workforce Committee (and in one odd case this year, the Committee on Agriculture); bills dealing with Native American housing to the Financial Services Committee; and bills affecting Indian Health Services to the Committee on Energy and Commerce.

Our point here is that either Resources has plenary jurisdiction over Native Americans or it does not. Much like the arguments made for the existence of the select Committee on Homeland Security, it makes good sense to have one committee oversee all operations relating to this single area which requires detailed knowledge and expertise. Native Americans enjoy a unique status under the Constitution and in hundreds of laws enacted by Congress since the earliest days of the Republic. Resources has the special expertise, and equally important, the strong relationships with the Native American tribes, the Bureau of Indian Affairs and the Senate Indian Affairs Committee, to comprehensively oversee and legislate in this area.

Many of the same arguments can be made for the insular areas. These are territories or possessions of the United States and other entities for which the United States has had a trust responsibility under the aegis of the United Nations. Under Rule 10, Resources is granted jurisdiction over "insular possession of the United States generally (except those affecting the revenue and appropriations)." While it might seem counterintuitive, most insular area program management is overseen by the U.S. Department of the Interior, not the Department of State. While Resources has had unchallenged jurisdiction over the U.S. territories of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands, its sway over other United Nations Trust Territories such as Palau, the Federated States of Micronesia and the Republic of the Marshall Islands, is much weaker. These last three governments are known as freely associated states (FAS) and the United States, through the Department of the Interior, enjoys a unique, very close relationship with them. They are not independent countries but more akin to territories or protected states to which the federal government provides primary economic support.

The strong history and expertise of this Committee in working with the FAS continued with the enactment of H.J. Res. 63 in the 108th Congress. This joint resolution authorized a new compact

of free association with the Marshall Islands and Micronesia. When draft legislation was submitted to the Congress, the bill was referred primarily to the Committee on International Relations and additionally to Resources and the Committee on the Judiciary. However, it was the Resources Committee who formally considered the bill through the committee process and authored an extensive, substantive amendment which later became the bill enacted into law. The reason for this is clear. Approximately ninety percent of the spending in the legislation (more than $4 billion) is funded through the Department of the Interior. The Office of Insular Affairs at Interior will continue to oversee all accountability and transparency concerns of this funding. In turn, the Resources Committee will have direct oversight over the Office of Insular Affairs as funding continues for the FAS for at least the next 20 years. Moreover, it should be noted that every single one of the delegates to Congress from the insular areas serve on the Resources Committee. They well understand the concerns of their Pacific neighbors. It makes sense for the Committee on Resources to have the lead on FAS, just as it does with the other insular areas.

There are many, many other examples where Resources has the primary interest in a legislative topic and other committees have overlapping secondary interests. These include energy development on public lands with the Energy and Commerce Committee; marine environmental protection with Transportation and Infrastructure; natural resources law enforcement with the Committee on Judiciary; the facilities of the Smithsonian Institution on the National Mall with the Committee on Transportation and Infrastructure (the funding for the Smithsonian comes from the Department of the Interior); the Sikes Act, which governs wildlife management on public lands withdrawn for military use, with the Committee on Armed Services; and memorials on the National Mall with the Government Reform Committee. Reduction of jurisdictional overlap in Rule 10 authorities by establishing exclusive jurisdiction in the Resources Committee in any of these subjects would contribute to both the efficiency and effectiveness of the House.

Finally, we wish to address the related issue of jurisdiction consolidation, which is the most thorny of issues that you will face regarding Rule 10. As the Chairman and Ranking Democrat of Resources, we of course want to defend as much as our turf as possible, but there may be instances where for the greater good of the House, a slight reordering of splintered jurisdiction is justified. A shift could compliment or consolidate existing authority a committee enjoys and reduce the multiple referrals of legislation.

The most illustrative subject matter in this area is that of national forests. Almost everyone already assumes that the Committee on Resources exercises sole jurisdiction over national forests. Certainly the Committee has been the most active in this area, spearheading the efforts to pass the President's Healthy Forest Initiative, battling legislative riders regarding roadless areas in national forests, and finding creative solutions to fight catastrophic wildfires.

However, Rule 10 bifurcates national forests between two committees. Resources has "forests. . .created from the public domain", which generally includes the vast tracts of national forests in the western United States. The Committee on Agriculture has other forests, such as those purchased from private citizens or acquired under the Weeks Act; these are located most often in the eastern and southern United States. However, gross geography is a poor test. The Committee on Resources has public domain forests in Florida, Arkansas and Michigan. There are Weeks Act forests in the West, as well. To further complicate matters, if a bill creates wilderness in a national forest (even in a Weeks Act forest), Resources always has the lead. However, Agriculture will take the reins if a bill relates to the operations of the U.S. Forest Service (even if a majority of the forests it manages are public domain forests) because the Forest Service is part

of the Department of Agriculture.

Are you confused? We certainly are and even is the Speaker. While the Committee on Resources has received referrals of 120 forest bills as of June 1 this year, three of those were mis-referred because they dealt with those tricky forests in Arkansas and Florida. Consolidating all national forest jurisdiction in the Resources Committee would allow the Committee to take a more comprehensive approach to forest management, take advantage of the expertise and knowledge that the Committee has developed in its very active role in this area over the last three Congresses, compliment our existing authority over almost all other public lands in the United States, and allow the Agriculture Committee to concentrate on its traditional constituencies.

A second example of logical issues artificially separated at birth are international agreements dealing with fish, wildlife and other natural resources. The Committee on Resources has explicit authority over "international fishery agreements" under Rule 10. Inexplicably, we do not have that authority over the International Whaling Commission (IWC) and the International Convention for the Regulation of Whaling, because as the Parliamentarian has often reminded us, "whales aren't fish". However, the international community regulates them just like fish. The Resources Committee does have exclusive domestic jurisdiction over whales under the Marine Mammal Protection Act, and the Commissioners to the IWC are from the National Oceanic and Atmospheric Administration (an agency under Resources' marine affairs and oceanography purview), not the Department of State.

To cite further artificial bifurcations, the Resources Committee has jurisdiction over water allocation of the great rivers of the western United States, but we were not referred bills which address the flows of those same rivers once they cross our national border.1 The Resources Committee enjoys jurisdiction over the domestic Endangered Species Act, but bills dealing with the Convention on International Trade in Endangered Species (also called CITES) would go to International Relations.2 In our view, an endangered bird is the same whether it flies over California or Calcutta. Finally, as discussed above, Resources has a good part of national forest jurisdiction, but a bill covering the same type of forest management issues in another country would not be referred to Resources, as demonstrated by the Congo Basin forest bill (H.R. 2264) this Congress.

The same Executive branch agencies are involved in the negotiations and implementation of these natural resources agreements, but not the same committees in the House. This makes little sense to us. The same constituencies affected by domestic natural resources laws are also affected by international agreements on the same subject, and in fact, under our Constitution, these agreements trump both federal and state law. Even before Congressman Pombo became a chairman, he attended CITES meetings in Zimbabwe, Kenya and Chile and we can assure you he has both the interest and ability to conduct oversight and legislate in the international natural resources arena.

Again, we thank you for this opportunity to address the Subcommittee. We hope our comments have been helpful, and we would be happy to answer any questions you might have.

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[1]H. Res. 527 and H. Con. Res. 181 (108th Congress).

[2]H. Con. Res. 180 (107th Congress).